



REPUBLIC OF KENYA



In re Estate of Mary Nyambura Wahome (Deceased) (Probate & Administration E435 of 2025) [2025] KEHC 10029 (KLR) (Family) (11 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10029 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

PROBATE & ADMINISTRATION E435 OF 2025

H NAMISI, J

JULY 11, 2025

**IN THE MATTER OF THE ESTATE OF MARY NYAMBURA WAHOME
(DECEASED)**

IN THE MATTER OF

SIMON OTIENO OKECH PETITIONER

RULING

1. The Deceased herein, who was an Advocate, passed away on 11 May 2023 in Nairobi. She died intestate. The Petitioner has presented this Petition for Letters of Administration ad colligenda bona under section 67 of the *Law of Succession Act*. The same is presented in his capacity as the widower of the Deceased.
2. The Petition is supported by an Affidavit sworn by the Petitioner. The Petitioner avers that prior to her demise, the Deceased operated two bank accounts held at National Bank of Kenya, Harambee Avenue. According to the Petitioner, the total funds available in the said Bank Accounts is Kshs 1.2 million.
3. The Petitioner avers that due to financial constraints, he is presently unable to meet the financial needs of the family. Other than himself, the Deceased had two dependents, her children, aged 28 years and 23 years.
4. Kevin Moses Otieno is enrolled at NIBS Technical College, pursuing a Diploma course in Business Management. Attached to the Supporting Affidavit is a copy of the Admission Letter and Fee Structure dated 2 September 2024. The Petitioner avers that the fees required is Kshs 216,000/=.
5. Siobhan Gracia Okech is also enrolled at NIBS Technical College, pursuing a Diploma Course in Hospitality Management. Attached to the Supporting Affidavit is a copy of the Admission Letter and Fee Structure dated 2 September 2024. The Petitioner avers that the fees required is Kshs 200,000/=.



6. Further, the Petitioner avers that he is in dire need of medical care and further treatment following deterioration of his health arising from a road accident that occurred on 29 June 2019. As a result of the accident, the Petitioner has lost his earning capacity as he is unable to carry out normal duties. The Petitioner avers that prior to her demise, the Deceased supported the family and had assumed the family's responsibilities and upkeep. Attached to the Application are copies of the medical reports, treatment notes and Police Abstract confirming the accident. The estimated medical costs are Kshs 584,000/=, while the family upkeep and maintenance are Kshs 200,000/=.
7. The Petitioner has also attached documents in support of the Petition, including letter dated 20 March 2024 from the Chief, Kabiria Location, Certificate of Death, copies of Ids of the dependants. There is a Medical Report/Referral Note dated 1 November 2024 that indicates that the Petitioner is unable to perform most of his activities of daily living due to severe low back pain and lower limb neuropathic manifestations. The report states that the Petitioner will require regular physiotherapy, medication and follow up at the Spine Clinic as well as Cardiology Clinic.
8. The Petitioner appeared before the Court. He informed the Court that other than the two bank accounts, the only other asset is a house that is jointly owned with the Petitioner.
9. Sections 54 and 67 (1) of the *Law of Succession Act*, Cap 160 of the Laws of Kenya and Rule 36 of the *Probate and Administration Rules* provide the circumstances under which a Special Limited Grant may be issued by the Court.
 - (54) A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.
 - (67) (1) No grant of representation, other than a Limited Grant for Collection and Preservation of Assets, shall be made until there has been published notice of the application of such grant, inviting objections thereto to me made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.
 - (36) (1) Where, owing to special circumstances the urgency of the matter is so great that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration ad colligenda bona defuncti of the estate.
10. I have considered the Application and attachments. The amounts in the two accounts are unknown. However, it is clear that there are pressing needs by the family that must be attended to. In order to preserve the assets of the estate, the Letters of Administration ad colligenda bona are hereby issued to the Petitioner and shall be limited to the named bank accounts: National Bank of Kenya, Harambee Avenue Branch, Accounts 770-----517 and 770*-----026.
11. Access shall be limited in the following terms:
 - i. The Petitioner shall obtain and furnish the Court with Statements of Accounts for the two named accounts for the last two months. The said statements shall be presented to the Court within 60 days of the date hereof;
 - ii. A sum of Kshs 216,000/= to be paid directly from the accounts to NIBS Technical College in respect of fees for Kelvin Moses Otieno;



- iii. A sum of Kshs 200,000/= to be paid directly from the accounts to NIBS Technical College in respect of fees for Siobhan Gracia Okech;
 - iv. Pending the production of the Statements of Accounts from the two bank accounts, the Petitioner shall have access to a sum of not more than Kshs 400,000/- for purposes of meeting medical, household and other expenses.
12. The said sums shall be considered at the time of the confirmation of the Grant. The Petitioner will be required to present full accounts. Any further dealing with the estate of the Deceased must be with the authority of the Court or upon full grant of representation.
13. Costs will be borne by the estate.

DATED AND DELIVERED AT NAIROBI THIS 11 DAY OF JULY 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Petitioner: Mr. Owino

Court Assistant: Libertine Achieng

